



November 19, 2010

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

**Re: *Comments – 2005 Closed Captioning NPRM and 2008 Closed Captioning
 NPRM, CG Docket No. 05-231 and ET Docket No. 99-254***

Dear Ms. Dortch:

NewsChannel 5 Network LLC, licensee of television station WTVF(TV), Nashville, TN (Facility ID 3650) ("NewsChannel 5") submits these comments in response to the October 25, 2010 Public Notice issued by the Commission's Consumer & Governmental Affairs Bureau in the above-captioned proceeding (the "Notice").

NewsChannel 5 is a subsidiary of Landmark Media Enterprises, a privately held media company headquartered in Norfolk, Virginia ("Landmark"). Landmark is in the business of gathering and reporting local news and information to its customers over a variety of distribution methods, including through its local broadcast stations, WTVF and KLAS, Las Vegas, Nevada, both of which are local CBS affiliates. I am writing specifically to address how NewsChannel 5's ability to serve the residents of Middle Tennessee would be affected, and ultimately threatened, by the expansion of captioning requirements for multicast channels.

NewsChannel 5 is committed to delivering local programming to the Nashville community. In furtherance of that commitment, WTVF was one of the first twenty stations in the country to launch local high definition newscasts. Further, we understand the importance of making programming accessible to all of the viewers within our community. Although it is not presently required to do so under the Commission's rules, WTVF provides real time captioning of its local news programming on NewsChannel 5, at a cost of approximately \$180,000 per year.

In addition, we deliver additional local news and public affairs programming through one of our two multicast channels, NewsChannel 5+. Notably, NewsChannel 5+ airs more than *eighty* (80) hours each month of locally-produced news and information programming. We started NewsChannel 5+ as a local cable station to further meet the needs of our community and, since the digital transition, NewsChannel 5+ is now broadcast over-the-air on our D-2 channel. As its name suggests, NewsChannel 5+ does not consist solely of repurposed local news content that airs on our primary station. In

addition to re-airing traditional news content, NewsChannel 5+ has a mix of broad-ranging newscasts and niche programming that targets specific groups in the Nashville community. For example, *¿Que Pasa Nashville?* focuses on the opportunities and challenges facing Middle Tennessee's growing Hispanic community. Similarly, we produce specific local shows for African Americans and the gay and lesbian community. Additional local programs focus on business, political issues, faith, and other very targeted local communities. This compelling programming provides an opportunity for the community to directly engage with local leaders, such as area mayors, police chiefs, school officials, and others.

While the NewsChannel 5 Network is committed to serving our local community through these programs, given existing captioning options, we could not afford to continue this public service if the Commission required us to caption the locally-produced programming on NewsChannel 5+. The multicast channel only generates around \$900,000 of revenue annually, requiring us to run a very lean operation. Based on our experience with real-time captioning on our primary station, we estimate that it would cost at least \$95,000 per year to caption the local programming on NewsChannel 5+. Even if the Commission preserved the option of using the electronic newsroom technique for multicast channels, that would only account for one hour of our NewsChannel 5+ programming per day, because programs such as our daily call-in shows do not utilize teleprompters. Generally, these programs are unscripted and involve panels of people. Affordable translation/captioning software has not developed to the point where it is able to recognize a variety of voices.

The reality is that WTVF, like many broadcast stations, is striving to keep people employed during very difficult economic times. Should the Commission eliminate its closed captioning revenue exemptions, this significant expense would leave us with the Hobson's choice of cutting staff or reducing or eliminating local programming on our multicast channel, a disservice to the variety of niche audiences we serve.

The legislative history surrounding adoption of closed captioning mandates for video programming clearly recognized the need to balance the interest in captioning programming against the potential for hindering the production and distribution of programming. While some years have passed since the rules' adoption, NewsChannel 5 respectfully submits that we have not seen any technologies that would enable us to automatically caption live programming in a way that is both accurate enough to serve the hearing-impaired community and cost-efficient enough to fit our budget. Therefore, we respectfully submit that the Commission should retain (1) the closed captioning exemption contained in Section 79.1(d)(12) of the Commission's rules for channels producing revenues of less than \$3,000,000 and apply the threshold individually to multicast channels; and (2) the closed captioning exemption contained in Section 79.1(d)(11) of the Commission's rules that provides that no video programming provider shall be required to expend more than two percent of gross revenues to caption programming, and should apply that exemption individually to multicast channels. The cost of captioning has not decreased significantly enough to alter the revenue threshold,

and imposing additional obligations on the programming aired on multicast channels likely would stifle the availability of new, local program offerings. .

We are extremely proud of the programming that we deliver on NewsChannel 5+ and particularly our ability to reach underserved members of our community. By using our multicast channel in this manner, we are able to increase the amount of news and information offerings in the Nashville market. Changing the rules so that we are required to fully caption local programming on this channel would force us to discontinue this valuable programming, limiting our ability to serve the residents of Middle Tennessee, and disserving the Commission's public interest goals.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Debbie Turner", with a long, sweeping horizontal line extending to the right.

Debbie Turner
President and General Manager